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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-fifth session

SUMMARY RECORD OF THE 1339th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 5 August 1999, at 10 a.m.

Chairman: Mr. ABOUL-NASR

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Thirteenth to fifteenth periodic reports of the Islamic Republic of Iran (continued) (CERD/C/338/Add.8, HRI/CORE/1/Add.106)

1. At the invitation of the Chairman, the members of the delegation of the Islamic Republic of Iran resumed their places at the Committee table.

2. Mr. FERRERO COSTA, commending the oral presentation and written report, drew attention to the ambiguity in paragraphs 80-82 of the core document (HRI/CORE/1/Add.106) over the right to invoke international human rights instruments in domestic judicial proceedings. Paragraph 80 stated that ratified international instruments had the force of law and were binding, a statement corroborated by paragraph 118 of the periodic report (CERD/C/338/Add.8), but paragraph 81 merely stated that those international instruments would "influence" the legislation and implementation of laws, and that the practice of the ordinary courts and the Supreme Court would "in the future" establish whether an individual could invoke provisions of international instruments in legal proceedings. Paragraph 82 stated only that direct reference to international instruments "may be made in domestic judicial proceedings". To what extent could the Convention be applied directly by courts? Were judges obliged to apply it? To what extent could the judge or the parties to a suit invoke the Convention?

3. He wondered whether the statement in paragraph 9 of the periodic report that there were no restrictions on the use of local and ethnic dialects or languages in the press and media or on teaching the literature of such languages, along with Persian, in the schools went far enough. It was one thing not to prohibit the use of other languages and quite another to promote their teaching and use. Was any education dispensed in the languages of the Lurs, Kurds and Baluchis, or in those of the Afghan and Iraqi refugees who had received such generous support in the country? Paragraph 39 mentioned mobile schools which had been established for nomads. What sort of education policy and measures had been adopted for that group?

4. The Act for the Punishment of Racial Discrimination Propaganda adopted in 1977 had already been the subject of a question - as yet unanswered - in the Committee's previous concluding observations (A/48/18, para. 262). Had any cases been brought under that Act? Could reference be made directly to the Convention in court? It appeared, as other members had said, that the legislation needed to be updated to bring it in line with the provisions of article 4 of the Convention, as the Act cited in paragraph 47 of the current report referred only to the mass media, whereas the scope of article 4 was broader.

5. What were the "necessary qualifications" required for a person to stand for election (para. 56)? Could the members of any ethnic group take part in the elections and hold office? Electoral participation was quite high. Was participation in elections mandatory and failure to vote subject to a fine, as in certain other countries?

6. Regarding the particularly important question of the right to freedom of thought, conscience and religion, it was stated in paragraphs 72 and 73 that Christians, Jews and Zoroastrians, as the only recognized religious minorities, had the same rights as the majority and, within the limits of the law, were free to perform their religious rites and ceremonies. What about religious minorities other than the three recognized ones? What was meant by the expression "within the limits of the law"?

7. Paragraph 76 raised a matter of interest and concern, referring as it did to restrictions on the exercise of freedom of expression for the purpose of protecting individual rights, national security and public order and morals, and to the constitutional right of press freedom, except for matters detrimental to the fundamental principles of Islam or to public rights. What was meant by such conditions? Was it true that a newspaper had been closed by the revolutionary tribunal for having published articles which were deemed to be harmful to the State? According to annex I of the report of the Special Representative of the Commission on Human Rights on the situation of human rights in the Islamic Republic of Iran (E/CN.4/1999/32), on 1 October 1998 the weekly Navid-e-Esfahan had been temporarily closed down for publishing articles detrimental to national security. What did that mean? In the State's observance of freedom of expression, was there discrimination against certain groups?

8. Paragraph 115 of the report stated that the problem of racism and racial discrimination had never been encountered in the Islamic Republic of Iran. The Committee had seen that in any country there would be some cases of discrimination. In the case of the Islamic Republic some very concrete examples of discriminatory laws were enumerated in annex IV to the report of the Special Representative of the Commission on Human Rights. For example, under the Islamic Criminal Code, the punishment for murder of a Muslim consisted in retribution, whereas the law fell silent when the victim was a non-Muslim, meaning no sanction needed to be applied. Non-married Muslim men convicted of fornication were punished by 100 lashes, as were non-Muslim men who fornicated with non-Muslim women, whereas non-Muslim men who fornicated with Muslim women received the death sentence. Sanctions could therefore differ according to the religion of the accused, and since certain ethnic minorities such as the Jews were also religious minorities, there would appear to be a de facto case of discrimination as defined in article 1 of the Convention. The question was a very complex and sensitive one, and required the attention of the Iranian authorities.

9. The CHAIRMAN, speaking in his capacity as a member of the Committee, said that the Committee's task was to examine racial discrimination and not to discuss whether Islam was fair or unfair. As a Muslim, he could explain the points raised by Mr. Ferrero Costa, but that would take time and would not be relevant to the Committee's work. The question of religious tolerance would be the subject of a future convention, which was still to be elaborated. Many countries restricted freedom of expression, for instance to limit the spread of pornography. The Committee itself did not consider freedom of expression to be absolute, as it would not accept that States should invoke it as a pretext for failure to implement article 4 of the Convention.

10. Mr. FERRERO COSTA said he understood the Chairman's position, but begged to differ with him, as in his view the concerns he had expressed fell within the scope of the Convention. The fact that the Chairman disagreed simply enriched the positive dialogue among the 18 members of the Committee.

11. Mr. YUTZIS said that the presence of such a large and highly qualified delegation demonstrated the importance which the State party attached to the Convention, the Committee and the United Nations. The periodic report included valuable information and reflected the Government's efforts to improve the conditions of the Iranian people. The social programmes for 20,000 Iranian nomadic households, which required significant Government investment, were but one example. It was heartening, at a time when many States were neglecting their duties and reducing public services, that the Government was making an effort to improve the lot of its poorest and most vulnerable people.

12. It was difficult to ignore certain aspects of de facto discrimination in the country which did not result from any intentional government policy but were vestiges of the past. References to such groups were made in paragraphs 11, 15 and 16 of the report, and paragraph 39 mentioned measures taken after the Islamic Revolution to eradicate deprivation and discrimination against deprived groups.

13. The statement at the end of paragraph 71 of the report that, under the law, thoughts and conscience, even if inclined towards ill intentions, were not considered a crime, was somewhat enigmatic. Could the delegation clarify the relationship between thoughts and conscience on the one hand and ill intent on the other? What was considered a crime? The delegation could perhaps answer that important question at the same time as it replied to Mr. Ferrero Costa's questions on paragraph 76.

14. Noting that "Zoroastrian, Jewish and Christian Iranians" were the only recognized religious minorities which were free to perform their own religious rites and ceremonies, he asked whether those religious minorities were also ethnic minorities. He felt that the question was relevant because, as historical experience had shown, restrictions on religious practices were often designed to destroy minorities' ethnic identity and culture as well as their religious beliefs.

15. He noted the statement in paragraph 75 that no one could be molested or reprimanded simply for holding a certain belief, a principle which "applies to all Iranian people". Did that mean Iranian citizens and, if so, what happened in the case of non-citizens? Paragraph 76 stated that the press had a mission to "deny false and divisive groupings": who defined the concept of a "false and divisive grouping"?

16. Mr. SHERIFIS said that the comprehensive report commendably sought to respond to the points raised by the Committee in the past. He, too, would welcome clarification of the terms used in the section entitled "Population" (paras. 8-16). He would also like to know the exact percentages of the various ethnic groups in the total population, if that information was available. In particular, he would like more information about the Iranian Kurds. Was the delegation familiar with the statement issued by the Committee

at its previous session on the situation of Kurdish people (CERD/C/54/Misc.20/Rev.1) and, if so, did it have any comment to make? Of course, the Committee's interest in the situation of ethnic minorities should not be construed as support for any action which might jeopardize the territorial integrity of the State party, as the Committee had made clear in its General Recommendation XXI of 1996 on the right to self-determination.

17. He was impressed by the detailed statistics relating to the elections to the Islamic Consultative Assembly (para. 57 of the report, with figures from the 1999 elections distributed at the meeting), and particularly by the high turnout by voters. What was the representation of the various ethnic minorities, as opposed to religious minorities, in the Consultative Assembly? How were the various ethnic minorities represented in the executive branch of government - the civil service and diplomatic service?

18. The report described various initiatives in human rights training and education (paras. 119-124). Had the Government established a national human rights institution, as recommended in the Committee's General Recommendation XVII, or did it intend to do so? He also wished to remind the delegation of the Committee's General Recommendation XIII on the training of law enforcement officials in human rights. Like other members, he wished to know whether the Islamic Republic of Iran had considered making the declaration provided for in article 14 of the Convention, which would allow its nationals to bring complaints directly to the Committee, and whether the Government intended to ratify the amendments to article 8, paragraph 6 of the Convention, regarding the financing of the Committee's activities.

19. The report by the Special Representative of the Commission on Human Rights expressed concern about the human rights situation of the Baha'i community. Did the delegation have any comment to make?

20. Mr. SHAHI welcomed the obvious commitment of the Government of the Islamic Republic of Iran to its obligations under the Convention, even though it was sometimes difficult to reconcile Islamic values with international human rights treaties, which were often seen as the heritage of Western human rights thinking.

21. There were many positive points in the report. It addressed the concerns which the Committee had raised in the past and gave detailed information about relevant legislation and the structure of the Government, the political system and human rights institutions. The Government had introduced affirmative action programmes to help disadvantaged areas. The country was host to a large number of refugees, including 1.6 million Afghan people, and there had been no allegations of racial discrimination against them.

22. The report gave some details of the demographic composition of the country, but it was important to distinguish between ethnic minorities, such as the Baluchis, Kurds and Lurs, and religious minorities, such as the Baha'is. He noted with satisfaction the statement in paragraph 21 that the Government constantly reviewed its legislation and regulations.

23. Among the shortcomings in the report was the scant information about how legislation was implemented in practice. It appeared that the legislation needed to be made more compatible with certain articles of the Convention, especially articles 2, 5 and 6. The International Covenant on Civil and Political Rights provided useful guidance about the guaranteeing of human rights, including those listed in article 5 of the Convention, and the limitations which might be placed on them in certain, extreme, circumstances. Other members had referred to allegations of murders, disappearances and extrajudicial killings, but the Committee was not competent to examine such cases unless they had a clear ethnic dimension. He would welcome clarification from the delegation on that point.

24. He endorsed the request from other members for more information about the participation of ethnic minorities in political life and their representation in the legislature, the Government and the civil service. For example, the table in paragraph 57 of the report showed that the province of Eastern Azerbaijan had 18 representatives in the Islamic Consultative Assembly. How many of those representatives were members of the Azeri ethnic minority? Similarly, how many representatives of the province of Sistan and Baluchistan were of Baluchi ethnic origin? In the table in paragraph 58, what proportion of the electorate belonged to ethnic minorities?

25. He asked if the State Chief Inspectorate referred to in paragraph 50 of the core document had been set up yet and if it would prosecute crimes of ethnic discrimination; whether the Islamic Human Rights Commission (para. 85) intended to review the Islamic Republic's legislation for conformity with the Convention, and whether it would monitor the implementation of the Convention in the country. He would appreciate more information about the Commission's follow-up to complaints it had received and also about the follow-up by the Department of Human Rights (para. 90) regarding alleged human rights violations.

The meeting was suspended at 11.30 a.m. and resumed at 11.45 a.m.

26. Mr. RECHETOV said that the Committee had been observing democratic developments in the Islamic Republic with great sympathy. Those developments were occurring, of course, in a particular civilization and culture, but he himself was not apprehensive of a dramatic clash between that civilization and standards elsewhere, anticipating rather its growing rapprochement with other cultures and legal systems. Internationally, there was a growing interest in pre-existing Iranian jurisprudence as well as in the Shariah itself. He believed that there were broad international human rights standards that all, including Islam, could support.

27. He further observed that in Germany, for instance, the judiciary had upheld the idea that electronic media should be made to serve the interests of the whole society. No particular group or avuncular figure should be allowed anywhere to use the media to direct the development of the society in any particular direction.

28. Mr. KHORRAM (Islamic Republic of Iran) said that the way had been paved towards further useful dialogue with the Committee. Some of the Committee's concerns were new to the delegation - especially its keen interest in the

details of ethnic distinctions - and the Islamic Republic would make a point of taking them into consideration in its next report. The delegation was not only prepared to answer all questions explicitly related to racial discrimination and the Convention but, given the climate of sincerity, would also address questions that had been raised outside the Committee's mandate, in order to allay its concerns. It would supply written replies to any left unanswered for lack of time.

29. Regarding the demographic composition of the Islamic Republic and the participation of the various ethnic groups in elections and political life, he explained that its roughly 60 million people lived in 28 provinces. The population density was greatest in the north central and north-western provinces, and least in the south-eastern provinces. The Azeris lived in the four northern provinces of Eastern Azerbaijan, Western Azerbaijan, Ardabil and Zanjan. The Kurds lived in the western provinces of Kurdistan, Kermanshah and Ilan. The Lurs lived in Lurestan province. Arabic-speaking Iranians lived in Khuzestan province on the Persian Gulf, in the south-west. The Baluchis lived in Sistan and Baluchistan province in the south-east, and the Turkomans lived in Golestan province in the north-east. The rest of the ethnic groups were scattered throughout the country. It should be noted, however, that the various ethnic groups were not closed, independent communities. People of any ethnic origin were free to move anywhere and to intermarry, and were found in provinces other than their own.

30. Consequently, members of any ethnic group could be candidates for public office or vote in elections in any province, provided they had established a one-year residency. Members of Parliament were elected according to proportional representation: one for every 200,000 in each province. There were no ethnic quotas of any kind. Thus, for example, of the 270 members of Parliament, 12 were Kurds, although proportionally to the number of Kurds in the country, they should be fewer than 4; and the same applied, mutatis mutandis, to the other ethnic groups.

31. The least developed areas in the country were in the arid south, because under the former regime more attention had been given to the central and western provinces. In two successive five-year plans, the Government of the Islamic Republic had tried to build them up. The Office for Assistance to Deprived Areas was in charge of the task, and there was no ethnic dimension to its work. However, more funds were, in fact, channelled to the ethnic groups living in the poorer fringe provinces like Sistan and Baluchistan, which were mountainous and lacking in natural resources. Seeking to redress the low level of education there, the Government had paid particular attention to building schools and the first real university, and emphasized health care and other basic needs.

32. Before the creation of the Islamic Republic of Iran, Kurdistan province had been a deprived area, but had since become one of the most advanced, economically, socially and culturally, in the country. Not only was traditional agriculture flourishing but important industries had been established as well as good modern communications. The region's parliamentary representatives and chief industrialists were all Kurds, whose ethnicity gave

no cause for social unrest, unlike the situation of Kurds in Iraq and Turkey, and many Iranians of other ethnic origins lived in the province and shared the general peace and prosperity.

33. Non-discrimination with regard to ethnic groups in all branches of public service was reflected in the composition of the current delegation, regarding which no account at all had been taken of ethnic backgrounds.

34. He hoped that his comments had helped to elucidate the situation in his country, but was ready to arrange for the provision of further facts and figures if required.

35. Mr. MEHRPOUR (Islamic Republic of Iran) said that information relating to the general questions about action taken in the Islamic Republic to implement the Convention's provisions was available in a book, which he had prepared, showing what was being done to promote and monitor awareness of human rights. Referring to a question raised by Mr. van Boven and other members of the Committee, he said that the Convention had been approved by Parliament and that, pursuant to article 9 of the Civil Code, any duly ratified international instrument assumed the same binding status as domestic law and could therefore be invoked directly by the courts. But there were no recorded instances in which a plaintiff, defendant or judge had seen fit to invoke any such instrument's provisions. Any instances of failure to bring a claim for racial discrimination before the courts could only be due to ignorance, because the provisions of the relevant instruments had been widely disseminated and there were certainly no obstacles to bringing such matters to court.

36. He understood the concern voiced about certain claims filed in the administrative courts and the latters' powers of abrogation. The Deputy Public Prosecutor would be asked to look into the matter, obtain details and report to the Committee.

37. The legal sanctions against dissemination of racist propaganda covered all forms, written as well as spoken. Legislation had been passed which reflected, in particular, article 4 of the Convention and, inter alia, defined means of propaganda as speech, radio and television, pamphlets, books, periodicals, newspapers and other written and printed matter; electronic data transmission should perhaps now be added. The law also prohibited the establishment or creation of entities to promote racism; its provisions had imperative force. There was no record hitherto, however, of any instances in which that law had had to be applied.

38. He had difficulty with some of the questions purportedly relating to article 4 of the Convention, among them some raised in the report of the Special Representative of the Commission on Human Rights - questions which in certain respects seemed to go beyond the Committee's mandate and raised matters which been dealt with in other forums such as the Human Rights Committee and the Committee on Economic, Social and Cultural Rights. It was widely recognized that the right to freedom of expression in general was subject to considerations such as public order and morals. In that regard, the relevant articles of the Iranian Constitution were similar to those in article 29 of the Universal Declaration of Human Rights and articles 17 to 19

of the International Covenant on Civil and Political Rights. In any case, criticism which implied that freedom of expression should be entirely untrammelled seemed at variance with the provisions relating to prohibition and punishment set out in article 4 of the Convention.

39. With regard to the Islamic Human Rights Commission and the Board for Follow-up and Monitoring the Implementation of the Constitution (paras. 111-112), President Khatami, following his election to office, had set up a five-person panel, composed mainly of jurists and including the Ministers of Justice and the Interior, with the task of codifying the duties incumbent on the President's office for implementing the Constitution and upholding the people's human rights. He would arrange for details of that body, now in its second year, to be sent to the Committee. Among its activities was a plan to provide extensive teaching on basic rights. A human rights teaching seminar had been held and was to become a regular annual feature. During the previous year some 500 complaints had been lodged about infringements of people's rights; all were being followed up. The Islamic Human Rights Commission was very active, not only in considering complaints, including those of ethnic minorities, but also in studying relevant international instruments to which the Islamic Republic of Iran was not yet a State party. He would arrange for a report on those activities to be sent to the Committee.

40. Article 68 of the Constitution defined political offences, but that subject was being studied further, as was the question of jury composition.

41. Mr. KHORRAM (Islamic Republic of Iran) expressed regret that there had been insufficient time for all the members of the delegation to answer questions and provide information relating to their respective spheres. The delegation would endeavour, however, to ensure that all replies that had not been delivered at the current meetings were submitted in writing.

42. The CHAIRMAN, thanking the delegation for its attendance and the further information provided, expressed the hope that some members of the delegation might be present at the next meeting, when the Country Rapporteur would speak.

The meeting rose at 1.10 p.m.